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H – 1164

International Court of Justice

H1164 – 0001

H1164 - 0002

SECTION OF INDICTMENT

APPENDIX A

Statement of Individual Responsibility for Crimes set out in Counts One, Two, Three and Four

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DOENITZ

The defendant DOENITZ between 1932 and 1945 was: Commanding Officer of the Weddigen U-boat flotilla, Commander-in-Chief of the U-Boat Arm, Vice-Admiral, Admiral, Grossadmiral and Commander-in-Chief of the German Navy, Advisor to Hitler, and Successor to Hitler as head of the German Government. The defendant DOENITZ used the foregoing positions, his personal influence, and his intimate connection with the Fuhrer in such a manner that: he promoted the preparations for war set forth in Count One of the Indictment; he participated in the military planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements and Assurances set forth in Counts One and Two of the Indictment; and he authorised, directed and participated in the War Crimes set forth in Count Three of the Indictment, including particularly the crimes against persons and property on the high seas.

INTERNATIONAL MILITARY TRIBUNAL
NURNBERG, GERMANY
GB Exhibit Trial Brief
Filed Jan 8, 1946

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CASE AGAINST KARL DOENITZ

I. POSITIONS HELD BY DOENITZ

The Defendant was appointed in 1935 as the first Commander of the Wedkigen U-Boat Flotilla (the first flotilla formed since 1918) and as such to the command of the U-Boat Arm. The promotion he received thereafter until his appointment in January 1943 to succeed the Defendant Raeder as Commander-in-Chief of the Navy merely followed and is a reflection of the expansion of that Arm.

2887-PS 2887-PS

As appears from the various documents to be put in evidence, Doenitz was awarded the following decorations: on the 18th September 1939 the Cluster of the Iron Cross First Class for the U-boat successes in the Baltic during the Polish campaign: this award was followed on the 21st April, 1940, by the high award of the Knight's Cross to the Iron Cross, whilst on the 7th April, 1943, he received personally from Hitler the Oak Leaf to the Knight's Cross of the Iron Cross as the 223rd recipient.

II PREPARATIONS FOR OFFENSIVE WAR

His services in building up the German Navy and, in particular, the offensive U-Boat Arm for the coming war were outstanding.

D.436 D.436 (Das Archiv 27.9.40 at page 550)
1463-PS 1463-PS (Taschenbuch fur die Kriegsmarine 1944)

It was not, however, only his ability as a naval officer which won him these high honours, his promotion to succeed the Defendant Raeder as Commander-in-Chief of the Navy, the personal position he acquired as one of Hitler's principal advisers, and finally - earlier candidates such as Goering having betrayed Hitler's trust or finding the position less attractive than they had anticipated - the doubtful honour of becoming his successor.

All these he owed to his fanatical adherence to Hitler and the Party, to his belief in the Nazi ideology with which he sought to indoctrinate the Navy, and, of course, to "the masterly understanding in adjusting himself to the changingfortunes of war" referred to in the Naval Pocket-Book and which may be regarded as synonymous with a capacity for utter ruthlessness.

His attitude to the Nazi Party and its creed is shown by his public utterances.

D.443 D.443 (Weimar (OKM/AMA/WF.B.No. 156/44 Ch. efs Gekedos 17.12.4
D.640 D.640 (Speech to Commanders-in-Chief 15.2.44)
2878-PS 2878-PS (Speech to the German People on Heroes' Day 12.3.44)
2878-PS (Broadcast to the Navy, 21.7.44)
2878-PS (Public announcement 24.7.44)
D.444 D.444 (Order of the Day (broadcast on North German Home Service 1.5.45)

Apart from his services in building up the U-Boat Arm, there is ample evidence that the Defendant, as Officer commanding U-boats, took part in the planning and execution of aggressive war against Poland, Norway and Denmark.

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C.126/C C.126/C (Extracts from Memorandum of C-in-C of the Navy 16.5.39).

C.126/E C.126/E (Extract from letter to the Fleet and Flag Officer U-Boats 2.8.39).

C.172 C.172 (Order No. 1 for "FallWeiss" signed by Defendant dated before 16.7.39)

C.122 C.122 (Extract from War Diary of German Naval War Staff 3.10.39).

C.5 C.5 (Memorandum from Doenitz to Supreme Command of the Navy 9.10.39)

C.151 C.151 (Extracts from the Operational Order for Operation "Hartmut" issued by Defendant 30.3.40).

His knowledge of the preparations for war against England is perhaps best shown by the disposition of the U-boats under his command on the 3rd September, 1939, when war broke out between Germany and the Western Allies. The locations of the sinkings in the following week including that of the "Athenia" provide corroboration.

D.652 D.652 (Chart of disposition of German U-boats on 3.9.39) (Chart showing location of sinkings by German U-boats during the seven days subsequent to 3.9.39).

III Participation in war crimes and crimes against humanity

The course of the war waged against neutral and allied merchant shipping by the U-boats followed under the direction of the Defendant a course of consistently increasing ruthlessness. The Defendant displayed his "masterly understanding in adjusting himself to the changing fortunes of war". From the very early days, merchant ships, both allied and neutral, were sunk without warning, and when operational danger zones had been announced by the German Admiralty these sinkings continued to take place both within and without those zones. With some exceptions in the early days of the war, no regard was taken for the safety of the crews or passengers of sunk merchant ships and the announcement claiming a total blockade of the British Isles merely served to confirm the established situation under which U-boat warfare was being conducted without regard to the established rules of international warfare or the requirements of humanity. The course of the war at sea during the first eighteen months is summarized by two official British reports made at a time when those who compiled them were ignorant of some of the actual orders issued which have since come to hand.

D.641(a) D.641(a) (Extracts from official report concerning German attacks on merchant shipping 3 Sept. 1939, to Sept. 40)

D.641(b) D.641(b) (Extracts from official report concer ing German attacks on merchant shipping from Sept. 1940 to February 28, 1941).

D.641(c) D.641(c) (Official statement on total sinkings by U-boats of British, allied and neutral ships during the war 1939-1945)

It is worth considering one example not quoted in the above reports of the ruthless nature of the actions conducted by the Defendant's U-Boat Commanders, particularly as both British and German reasons are available.

D.644 D.644 (Official report on sinking of s.s."Sheaf Mead" 27.5.40)

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Now that it is possible to examine some of the actual documents by which the Defendant and his fellow conspirators issued their orders in disregard of international law and the laws of humanity. You may think the compiler of the above reports understated the case against the Nazis. These orders cover not only the period referred to in the reports but also the subsequent course of the war. It is interesting to note the steps by which the Defendants progressed. At first they were content with breaching the rules of international law to the extent of sinking merchant ships, including neutral ships, without warning where there was a reasonable prospect of being able to do so without discovery. The facts already quoted show that the question of whether ships were defensively armed or outside the declared operational areas was in practice immaterial.

C.191 C.191 (Memorandum of German Naval War Staff entitled "Demands of Flag Officer U-boats" 22.9.39).

C.21 C.21 (Extract from file on intensification of U-boat warfare Jan. 1940)

C.118 C.118 (Extract from file on authorisation of attacks on U.S. Merchantmen 18.7.41)

Before long, however, it became apparent that the danger to personnel was a threat which might be made use of to undermine the morale of allied merchant crews. Orders were accordingly issued enjoining U-boat Commanders to abstain from attempting to rescue crews.

D.642 D.642 (Extract from B.d.U. Standing Order No. 154 dated before May 1940)

It was, however, in 1942, when the United States had entered the war with its enormous ship-building capacity that the change thus brought about necessitated a further "masterly adjustment" in the methods adopted by the German Navy and the Defendant Doenitz was guilty of th issue of an order which intended not merely the sinking of merchant shi not merely the abstention from rescue of the crews, but their deliberate extermination.

D.423 D.423 (Extract from record of conversation between Hitler and Japanese Ambassador in presence of Ribbentrop 3.1.42)

D.446 D.446 (Extract from B.d.U. War Diary of 16.9.42)

D.630 D.630 (Order to all U-Boat Commanders by Doenitz 17.9.42)
(Extract from B.d.U. War Diary 17.9.42)
(Telegram from U-Boat Commander "Schacht to B.d.U. 17.9.42)
(Reply 20.9.42)

It would appear from the War Diary entry that orders on the lines discussed between Hitler and Oshima were in fact issued but we have not captured them; it may be that for obvious reasons they were issued orally and that Doenitz awaited a suitable opportunity before confirming them in writing - even in the German Navy an order to exterminate men, women, and children clinging to rafts or lifeboats might appear repugnant to some officers. The incident of the bombing of the U-boats detailed to rescue the Italian survivors from the "Laconia" afforded the opportunity and the order to all Commanders was issued. Its intent is very clear when considered in the light of the War Diary entry. The wording is, of course, extremely careful but to any officer of experience its intent was obvious and he would know that deliberate action to annihilate survivors would be approved under the order. You will be told that this order, although perhaps unfortunately phrased, was merely intended to stop a commander from jeopardizing

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his ship by attempting rescue which had become increasingly dangerous as a result of the extended coverage of the ocean by allied aircraft. You will be told that the notorious action of the U-Boat Commander Eck in sinking the Greek steamer "Peleus" in cold blood and then machine-gunning the crew on their rafts and in the water, was an exception and that, although it may be true that a copy of the order was on board, this action was taken solely, as he himself has sworn, on his own initiative.

It is pointed out that if the intent was to stop rescue attempts in the interest of the preservation of the U-boat:

1) This would have been effected by calling attention to Standing Order 154.

2) This very fact would have been prominently stated in the order - drastic orders of this sort are not drafted by experienced staff officers without the greatest care and an eye to their possible capture by the enemy.

3) If it was necessary to avoid the risks attendant on surfacing, not only would this have been stated but there would have been no question of taking any prisoners at all except possibly in circumstances where virtually no risk in surfacing was to be apprehended.

4) The final sentence of the first paragraph would have read very differently.

5) If, in fact, and the Prosecution do not for one moment accept it, the Defendant did not mean to enjoin murder, his order was so worded that he cannot escape the responsibility which attaches to such criminal negligence.

However, as it happens, the Defendant himself explained his intention to his officers:

D.566 D.566 (Affidavit by Oberleutnant zur See 27.11.45)

An experienced Staff Officer issued instructions accordingly.

382-PS 382-PS (Affidavit by Korvetten Kapitan 19.7.45)

Apart from the incident of the sinking of the "Peleus", evidence is submitted of two cases where, although the order was apparently put into effect, survivors have been lucky enough to escape to tell the story.

D.645 D.645 (Report on sinking of "Noreen Mary" on 5.7.44 with extract from War Diary of U-Boat 247 and comment by Doenitz).

D.647 D.647 (Report on sinking of "Antonico" on 28.9.42)

The German wireless itself confirmed that the intent of these attacks was terrorism.

D.646 D.646(a)(b) (Talk by German Naval War Reporter on 11.3.43) and extract from War Diary of U.105 dated 12.1.43)

In the submission of the prosecution the above evidence proves conclusively that this Defendant deliberately sought to terrorise the civilian crews of merchant ships and that the orders issued pursuant to this policy culminated in the order of 17.9.42. This order was not withdrawn as appears from the evidence of Korvetten Kapitan Moehle and it will have been noted that in thecase of the "Noreen Mary" the order was acted on in July 1944. Already by the summer of 1943 new allied detection devices had made it exceedingly dangerous for U-boats to surface

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save in exceptional circumstances and U-boat Commanders could no longer hope to carry out the order with impunity. Although there are, of course, a number of cases after that date when merchant ships disappeared with their whole crews, it is clear we need expect no revelations as to their fate from the logs of U-boat Commanders - the case of the "Athenia" is proof of that. It may be that the difficulty of putting the order into effect without endangering the U-boat prevented similar action in these cases or that other Commanders were less clumsy and did not leave survivors to witness to their action, it may even be that with the promotion of Doenitz to be Commander-in-Chief of the Navy within a few months of the issue of this order those left in more immediate charge of U-boat operations did not feel it expedient to emphasize the order. Whatever the ultimate trend of Nazi naval policy this brutal order, which contravenes the doctrines of international law, the laws of humanity and the maritime traditions of civilized peoples, is worthy of comparison with any issued by any of his fellow conspirators not excluding Himmler.

On the 30th January, 1943, the Defendant succeeded Grossadmiral Raeder and acquired the right to participate in the meetings of the Reich Cabinet, although in fact policy was by then principally decided at Hitler's daily conferences rather than by any formal advisory body.

2098-PS 2098-PS (Decree, 25.2.38)

We have a summary of the available records of these daily conferences in the form of an official report. This record lists 119 dates on which Doenitz personally attended one or more such conferences with Hitler, from the date of his promotion to be head of the Navy till nearly the end of the war. The conferences were not, of course, confined to service matters and it will be seen that amongst those who attended with Doenitz on these occasions were the following defendants: Goering, Ribbentrop, Speer, Kaltenbrunner, Bormann, Keitel and Jodl, as also other Nazi leaders now dead, such as Himmler.

It is submitted that the record is sufficient to show beyond reasonable doubt that Doenitz was an intimate adviser of the Fuhrer and that he was in close touch with the other Nazi conspirators who between them controlled all the aspects of Nazi policy.

D.648 D.648 (Affidavit)

It is perhaps worth considering five further documents to show the Defendant's part in the conspiracy, his ruthlessness and disregard of convention or laws of humanity.

C.178 C.178 (Memorandum by Naval War Staff, 11.2.43)
D.649 D.649 (Affidavit on evidence produced at Military Court sworn 28.12.45)
C.158 C.158 (Extracts from minutes of Hitler conference 19.2.45)
C.171 C.171 (Extract from minutes of meeting between Doenitz and Hitler, 1.7.44)
C.195 C.195 (Memorandum by Doenitz, Dec. 44)

In conclusion the Defendant's part in the conspiracy is well illustrated by the orders he issued in April. They show his fanatical adherence to the Nazi creed and his preparedness even at that stage to continue a hopeless war at the expense of human life and with the certainty of increased destruction and misery to the men, women and children of his country.

D.650 D.650 (Secret decree of Defendant 11.4.45)
(Secret order of the day 19;4.45)
(Secret decree by Doenitz 7.4.45)

Filed Jan. 8, 1946

INTERNATIONAL MILITARY TRIBUNAL

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Received
Jan 8/46

BRITISH TRIAL BRIEF

KARL DÖNITZ

Karl Dönitz

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